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**PDF PAGE 1, COLUMN 3**

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**DORSEY PREPARES  
TO RAP**

**NEW EVIDENCE  
FOR FRANK**

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**PDF PAGE 1, COLUMN 7**

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**WITNES  
S IS**

# ASKED OF MARY'S HAIR

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Embalmer Gheesling  
Called in

Trial of Jim Conley to  
Tell of

Color and Texture of  
Pha-

gan Girl's Hair

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TRIAL OF  
ACCESSORY

ADJOURNS FOR  
DAY

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Negro Factory Sweeper  
Pleads

# Not Guilty and Asks Jury to Acquit Him—Search Made For McKnight

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Indication that Solicitor H. M. Dorsey will inject in some way into the trial of Jim Conley the issue created recently by the sensational statement of Dr. H. F. Harris that in his opinion the hair found on the lathe of the National Pencil factory was not the hair of Mary Phagan, was given Monday during the trial of Conley, when Solicitor Dorsey put upon the stand W. H. Gheesling, the undertaker who embalmed the body of the dead girl, and questioned him about her hair.

The solicitor's questions got into the record of testimony of Gheesling that he washed the hair with pine tar soap which made its color lighter; that the body was not buried until some fifty-six hours later; that the hair was thick and long and probably grew fast, and that hair often continues to grow after death.

## DR. HARRIS' STATEMENT.

Dr. Harris' exclusive statement to The Journal last week was that the hair which he took from the body after exhuming it some days following its burial, did not appear the same under the microscope as that which was found on the lathe in the factory.

Another promise of sensational development in the Conley trial was given by the solicitor when he stated that a search for Albert McKnight during the last two days had proved fruitless. He secured the court's permission to put McKnight on the stand if he is found before the end of the trial. McKnight is the negro who repudiated Saturday night his testimony for the state in the trial of Leo M. Frank.

For hardly three hours the records of the Frank trial were read, Monday, to the jury which is trying Conley, the accessory after the fact of the murder. When court recessed at 1:45 o'clock until 9 o'clock Tuesday, practically all the evidence was in from both sides. Gheesling had been the only witness to take the stand.

The jurors were not locked up for the night. They were allowed to go to their homes, after the court had admonished them not to talk with anyone about the case.

At 10:55 o'clock Monday the twelve jurors had been selected who are to try Conley. Three panels of veniremen were

**(Continued on Last Page, Col. Two.)**

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**PDF PAGE 16, COLUMN 2**

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# **JIM CONLEY ON TRIAL AS ACCESSORY IN THE**

# MARY PHAGAN MURDER

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**(Continued from Page 1.)**

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exhausted in selecting the twelve. Previously formed opinions about the guilt or innocence of the accused negro disqualified many from serving.

Here are the names of the jurors: J. A. Simpson, M. F. Johns, A. L. Suttles, J. S. Owens, T. W. Stanley, W. E. Mitcham, J. G. Sherrer, B. J. Meaders, J. A. Cochran, O. T. Kitchens, J. S. Dildy and C. L. Brown.

Conley faced two indictments in the court—one charging him with the crime alleged against him as a misdemeanor, the other charging the same crime as a felony. After the reading of the evidence is in, Judge Hill will direct the jury whether to consider the charge as a felony or a misdemeanor.

Solicitor Dorsey will contend that it is a felony. The solicitor stated that he will ask for the extreme penalty.

PLEADS NOT GUILTY.

Conley was arraigned immediately, and, through his lawyer, pleaded not guilty to the charge. Though Conley admits his statement that he helped Leo M. Frank dispose of Mary Phagan's body, his lawyer contends that he was innocent of wrong-doing.

Solicitor Dorsey then stated to the court that both the prosecution and the defense were agreed on the record as to this premise—that Leo M. Frank murdered Mary Phagan. He stated that the evidence of Newt Lee, the negro night watchman;

Sergeant L. S. Dobbs, of the city police, and of Conley himself, would be read from the record of the trial of Frank.

Assistant Solicitor Stephens began reading the testimony of Sergeant Dobbs from that record.

After Assistant Solicitor Stephens had finished reading Conley's testimony, he read that of Mrs. Mattie White from the records of the Frank trial; next, that of Harry Scott, following with the testimony of Monteen Stover, R. P. Barrett, Mel Stanford and Mrs. George Jefferson.

#### MARY PHAGAN'S HAIR.

Mr. Stephens then read the Frank trial record of the cross examination of Magnolia Kennedy by Solicitor Dorsey, in which she testified that R. P. Barrett called her attention to the hair found on the lathe.

W. H. Gheesling, the state's first and only witness, was called then to the stand. He is the undertaker who took Mary Phagan's body in charge.

"When you took her to the undertaking establishment, what did you do to her hair?" asked the solicitor.

"I washed it with pine tar soap."

"What effect did that have on its color?"

"Made it lighter. Washing always makes hair lighter."

"How long after that was the body buried?"

"About 56 hours later."

"Had there been any further change then?"

"I don't think so."

"What sort of hair did Mary Phagan have?"

"It was long and very thick."

"It was long and very thick."

"Does that mean her hair would grow rapidly?"

"I think it would mean that."

"Does hair grow after death?"

"In many instances it does; in others it does not."

#### STATE RESTS CASE.

Solicitor Dorsey then stated to the jury, by agreement of both sides, the following: That Leo M. Frank admitted on the stand that Mary Phagan was in the pencil factory about noon. She never was seen alive after that. M. V. Darley testified at the trial that blood was found at a certain spot on the floor of the factory, and pointed out that spot. It was the same spot pointed out by Jim Conley as the place where he dropped the body. Dr. Claude Smith examined chips from the floor there and said the stain on them was blood. The solicitor recited briefly the salient points in the testimony of Mrs. J. W. Coleman, mother of Mary Phagan, and of Dr. H. F. Harris, chief expert for the state. There the state rested its case.

Attorney William M. Smith, for the negro, started to read a statement for the defendant, taken practically in its entirety from the record, he said. Judge Hill interposed, saying he knew no authority of law which would permit the statement to be read for the defendant. If the defendant wanted to make a statement, said the judge, he should get on the stand and make it.



Mr. Smith replied that his agreement with the solicitor permitted just what he sought to do, and that unless he was allowed to continue on his side of the agreement, he would have to withdraw that agreement and require the state to introduce all its witnesses in person and accept nothing from the Frank trial records.

#### JUDGE INTERRUPTS.

Judge Hill asked him to cite some authority of law permitting him to read the statement for the defendant. Mr. Smith confessed that he could cite none.

Solicitor Dorsey interposed. The constitution of the state guarantees to every accused person the right to be confronted by the witnesses against him, said the solicitor. Conley, through his attorney, had waived that right in return for concession by the state. The matter merely was one of saving time, said the solicitor. If the agreement were not allowed to stand, the trial of the case would take several days, said he, instead of one.

“Oh, well, if it is agreed between you, you may proceed, Mr. Smith,” said the court.

#### NEGRO ASKS ACQUITTAL.

Reading the statement for Conley, Mr. Smith brought out in the negro's behalf from his own testimony at the Frank trial that Frank was arrested on Tuesday and sent to the county jail, whereas he (Conley) was arrested on Thursday and held in the city jail; and that consequently he could not have harbored Frank or concealed him. He was not given the opportunity to tell any magistrate what, he knew, said he, until he was brought into court at the trial of Frank; and then he told the truth, assisting the state materially so that it was largely on his testimony that Frank was convicted of the crime. Conley admitted in his statement that he

did lie to officers of the law at first because he was afraid, but that he finally did tell the police the truth.

“I am not guilty of this crime, and I ask you to acquit me,” were the concluding words of the statement.”

In rebuttal, Solicitor Dorsey read another extract from Harry Scott’s testimony, in which the detective told about his efforts to extract the truth from Conley and that when he saw the negro for the last time before the trial Conley still was not telling the story which he told later at the trial.

#### SEARCH FOR M’KNIGHT.

Finishing this evidence from Scott, the solicitor addressed the court. He said that all of the evidence of the prosecution was in except that of one witness—Albert McKnight, a negro. Representatives of the solicitor’ office hunted for McKnight all day Sunday, said Mr. Dorsey, and four representatives had been hunting all morning Monday, but they had not yet been able to locate the negro. When McKnight was seen last, said the solicitor, he was in a downtown office building, Saturday night.

“We want to ask your honor’s permission, by agreement of both sides, to put in the evidence of McKnight, provided we can locate him before this case is concluded.”

Judge Hill said that would be all right. At that juncture, at 1:45 o’clock, court recessed until 9 o’clock Tuesday morning.

Solicitor Dorsey interrupted to state that it was agreed also by both sides that the notes found beside the body of Mary Phagan were written by Jim Conley. The solicitor introduced in evidence authenticated photographs of those notes.

At 12:20 o'clock Mr. Stephens finished reading the Dobbs evidence and began reading that of Jim Conley, from the Frank trial record.

The court room was crowded. Conley, the accused negro, sat unconcernedly in the prisoner's docket.

Although there is a complete court calendar for the week, the session was called specifically for the purpose of trying Conley. Because of a demand placed upon the minutes of the court at the last term by William M. Smith counsel for Conley, the negro must be arraigned before the first day of March or the indictments against him are automatically dismissed.

Efforts were made to bring the case up at the last term of court by the solicitor general, but Judge Hill refused to hear Conley's case while the Frank case was still pending in the court.

When the superior court adjourned at the first of this month the Frank case had not then been decided, and Judge Hill ordered a session of court for this week, anticipating that before the date was reached the supreme court would act on the case of the principal in the murderer.

#### LAW IN CASE.

It is known the hearing will consist principally of a discussion of the law in the case, as the record of the Frank trial was admitted by Attorney Smith, and in this Conley declares himself that he assisted Frank in disposing of the slain girls body.

Therefore, the principal point to be determined is whether or not this act makes Conley guilty under the law's definition of "accessory after the fact."

Another legal point, which it was known before the trial, would have to be settled is “if Conley is guilty as an accessory, is the crime a misdemeanor or a felony?”

The misdemeanor indictment against Conley charged that he, “knowing that Leo M. Frank had unlawfully and with malice aforethought murdered and killed one Mary Phagan, did conceal said knowledge from the magistrates, and did harbor, protect and assist said Leo M. Frank, and said Leo M. Frank has been convicted of the murder of Mary Phagan.”

The felony indictment was like the foregoing except that the words “did conceal said knowledge from the magistrates” were changed to “did conceal said knowledge from the officers of the law.”

A new development in the Frank case is the fact that the defense has secured a number of affidavits from state’s witnesses at the trial repudiating their statements on the witness stand much after the manner in which Albert McKnight has changed his story.

The affidavits are alleged to have been obtained by Captain C. W. Burke, a special investigator in the employ of Frank’s attorneys, Luther Z. Rosser and Reuben R. Arnold. They are said to contain charges against the detectives, particularly against City Detective S. L. Rosser.

It will be claimed in the affidavits, so it is said, that the detective induced the witnesses to swear that Frank’s character was bad, and that he concocted certain specific instances to be used by the witnesses in event they were cross-examined.

#### NINA FORMBY’S AFFIDAVIT.

Among the various affidavits which the defense is said to have collected, is one made by Nina Formby, it is said. She did

not appear at the trial as a witness, but she did make an affidavit to the state's authorities in which she gave evidence against Frank's character, and also asserted that on the Saturday evening of the crime Frank telephoned her apartments, begging her to allow him to bring a young girl there.

She will not only repudiate the story told in her affidavit, it is said, but will bring additional charges against the police.

#### REHEARING PETITION.

The petition for a rehearing on certain points in the Frank case will be filed with the state supreme court on Tuesday morning. Attorneys Rosser and Arnold, Frank's attorneys, had hoped to complete the petition in time to file Monday, but were unable to do so.

Immediately after filing this petition they will go to work on the extraordinary motion for a new trial which they will make before Judge Ben H. Hill, of the Fulton superior court. This extraordinary motion will be based upon newly discovered evidence—the admissions by Dr. H. F. Harris that the hair taken from the lathe handle was not of the same shade, texture and shape as that cut from the head of Mary Phagan, and several affidavits in which former state's witnesses repudiate the testimony given by them at Frank's trial.

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